

REMARKS

The Examiner has rejected claims 27, 28 and 30-47 on the ground of nonstatutory, obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. patent 6,682,618. It is respectfully submitted that the Examiner is incorrect.

As the Examiner points out, a nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy and which is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinguishing from claims in a first patent. Determining if a double patenting rejection is appropriate involves the answers to the following inquiries: Is the same invention being claimed twice? If not, are the inventions directed to the same inventive concept with a change in scope or directed to obvious variations of the same inventive concept?

Regarding the first query, the Examiner argues that although the conflicting claims are not identical, they are not patentably distinct from each other. However, it is urged that the same invention is clearly not being claimed twice. Double patenting rejections are based solely on a comparison of claims. Accordingly, the only text that the Examiner is legally permitted to reference in applying a double patenting rejection is the text of the claims. Looking only at the text of the claims from the 6,682,618 patent, it is respectfully asserted that the rejection is improper at first glance because claims 1-5 of U.S. patent 6,682,618 are process claims while the claims of the present invention are article claims. More particularly, the claims of this invention are directed to an untwisted wrapped singles yarn and a Saxony carpet manufactured from an untwisted wrapped singles yarn, while the claims of U.S. patent 6,682,618 are directed to a process for producing a yarn suitable for tufting. The same invention is not being claimed twice and the claims of this invention and claims 1-5 of U.S. patent 6,682,618 are patentably distinct from one another. Accordingly, the double patenting rejection is incorrect.

Regarding the second query, it is respectfully submitted that the claimed invention is not an obvious variant of the claims of U.S. patent 6,682,618. The presently claimed invention relates to a Saxony carpet untwisted wrapped singles yarn. More particularly, the invention pertains to a Saxony carpet *untwisted wrapped singles yarn* comprising:

a) a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn; and b) a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn; wherein said wrapper yarn comprises at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber. The invention also pertains to Saxony carpets which are formed using *untwisted wrapped singles yarns*.

Applicants respectfully urge that the presently claimed invention differs from claims of U.S. patent 6,682,618 because U.S. patent 6,682,618 *fails to claim Saxony carpet untwisted wrapped singles yarns*, particularly comprising a base synthetic fiber wrapper yarn containing heat activated binder material. Such is disclosed in the claims of U.S. patent 6,682,618.

Claim 1 of the applied reference claims:

1. A process for producing a yarn suitable for tufting, said process comprising the steps of:
  - a. forming a bundle consisting essentially of a first base fiber prior to spinning, said first base fiber being selected from the group consisting of polyamides, polyesters, polyolefins, cotton and wool;
  - b. ring spinning or wrap spinning the bundle of fiber with a second fiber to form a yarn, said second fiber being twisted or wrapped uniformly around the bundle of fiber and consisting essentially of a blend of a second base fiber and a heat-activated binder material having a melting point lower than that of said bundle of fiber, said yarn comprising 0.1 to 12 weight percent of the binder material;
  - c. heating the yarn sufficiently to melt the binder material; followed by
  - d. cooling the yarn to solidify the binder material.

In comparison, claims 27 and 28 of this invention claim:

27. A Saxony carpet untwisted wrapped singles yarn comprising:

- a. a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn; and
- b. a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn; wherein said wrapper yarn comprises at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber.

28. A Saxony carpet manufactured from an untwisted wrapped singles yarn, wherein the untwisted wrapped singles yarn comprises:

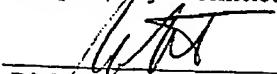
- a. a core strand comprising a member selected from the group consisting of a sliver and a bulked continuous filament yarn; and
- b. a wrapper yarn comprising a member selected from the group consisting of a spun staple yarn and a continuous filament yarn; wherein said wrapper yarn comprises at least one base synthetic fiber material selected from the group consisting of polyester, polyolefin, polyamide, and a heat activated binder fiber having a melting point at least 20°C lower than the base synthetic fiber.

U.S. patent 6,682,618 claims a process for producing a twist set yarn where a heat activated binder material is incorporated in a wrapper yarn. The applied reference does not claim the formation of a Saxony carpet untwisted wrapped singles yarn or a Saxony carpet using untwisted wrapped singles yarns. Indeed, the reference does not claim Saxony carpeting or yarns for the formation of Saxony carpeting at all. In contrast, the claimed invention is directed solely to the formation of Saxony carpet using untwisted wrapped singles yarns that are not twist set. Therefore, the claims of the invention and the claims of the U.S. patent 6,682,618 reference differ significantly. Accordingly, it is respectfully submitted that the double patenting rejection is improper and should be rescinded. Such action is requested.

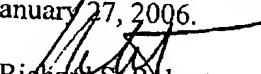
The undersigned respectfully requests re-examination of this application and believes it is now in condition for allowance. Such action is requested. If the Examiner believes there is any matter which prevents allowance of the present application, it is requested that the

undersigned be contacted to arrange for an interview which may expedite prosecution.

Respectfully submitted,

  
Richard S. Roberts  
Reg. No. 27,941  
P.O. Box 484  
Princeton, New Jersey 08542  
(609) 921-3500  
Date: January 27, 2006

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office (FAX No. 571-273-8300) on January 27, 2006.

  
Richard S. Roberts  
Reg. No. 27,941